

## Department of the Navy, DoD

## § 724.217

notify the applicant or counsel or representative: (a) of the right to examine such documents or to be provided with copies of the documents upon request; (b) of the date by which such requests must be received; and (c) of the opportunity to respond within a reasonable period of time to be set by the NDRB.

(2) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the NDRB, shall prepare a summary of or an extract from the document, deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the NDRB in its review of the case.

(e) Regulations of a military department may be obtained at many installations under the jurisdiction of the Military Department concerned or by writing to the following address: DA Military Review Boards Agency, Attention: SFBA (Reading Room), Room 1E520, The Pentagon, Washington, DC 20310.

[50 FR 10943, Mar. 19, 1985, as amended at 65 FR 62616, Oct. 19, 2000]

### § 724.213 Attendance of witnesses.

Arrangement for attendance of witnesses testifying in behalf of the applicant at discharge review hearings is the responsibility of the applicant. The NDRB is not authorized to subpoena or otherwise require their presence.

### § 724.214 Applicant's expenses.

Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or counsel/representative will not be paid by the Department of Defense. The NDRB is not authorized to issue orders or other process to enable the applicant to appear in person.

### § 724.215 Military representation.

Military officers, except those acting pursuant to specific detailing by appropriate authorities desiring to act for or

on behalf of an applicant in the presentation of a case before an NDRB Panel are advised to consult legal counsel before undertaking such representation. Such representation may be prohibited by 18 U.S.C. 205.

### § 724.216 Failure to appear at a hearing or respond to a scheduling notice.

(a) Except as otherwise authorized by the Secretary concerned, further opportunity for a hearing shall not be made available in the following circumstances to an applicant who has requested a hearing:

(1) When the applicant has been sent a letter containing the month and location of a proposed hearing and fails to make a timely response; or

(2) When the applicant, after being notified by letter of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, without having made a prior, timely request for a continuation, postponement, or withdrawal.

(b) In such cases, the applicant shall be deemed to have waived the right to a hearing, and the NDRB shall complete its review of the discharge. Further request for a hearing shall not be granted unless the applicant can demonstrate that the failure to appear or respond was due to circumstances beyond the applicant's control.

### § 724.217 Limitation—Reconsiderations.

A discharge review shall not be subject to reconsideration except:

(a) When the only previous consideration of the case was on the motion of the NDRB;

(b) When the original discharge review did not involve a personal hearing and a hearing is now desired, and the provisions of § 724.216 do not apply;

(c) When changes in discharge policy are announced after an earlier review of an applicant's discharge, and the new policy is made expressly retroactive;

(d) When the NDRB determines that policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a service-wide basis to discharges of the